

The Cumulative Expansion of Plot 23 Has Disregarded the Original Amenity Safeguards

The acceptability of Plot 23 under applications 2020/93954 and 2023/93464 depended upon a coordinated arrangement of building levels, scale, siting, spacing, roof form, ground profiles and landscaping.

Application 2026/91657 must assess the cumulative effect of the departures from that arrangement. Plot 23 has expanded upwards, sideways and downwards, while the approved separation from Plot 34 has been reduced. These changes cannot properly be treated as unrelated minor alterations.

Kirklees Local Plan Policy LP24 requires development to maintain appropriate distances between buildings, provide a high standard of amenity for neighbouring and future occupiers, and respond appropriately to its context, including scale, massing, height and topography.

The Kirklees Housebuilders Design Guide SPD explains that space between buildings protects privacy, light and outlook and contributes to the character of a development. The appropriate separation depends upon the height, scale and relative position of the buildings, with greater distances potentially necessary where buildings are higher or steep topography increases their visual and overlooking effects.

Those considerations are directly relevant here. Plot 23 occupies an elevated position on steeply sloping land, has been constructed higher than approved, has increased in width and perceptible levels, and no longer maintains the approved separation from Plot 34.

Height and apparent scale

The Design and Access Statement submitted under application 2020/93954 justified the proposed three-storey dwellings in the following terms:

“In addition, the heights of the respective ridge lines to the existing houses above Lingards Road when compared with the height of ridge lines to the new 3 storey houses above their respective new road levels, are approximately equal and in some instances the height to the ridge lines of the existing houses is greater. This justifies the proposed new housing at 3 storeys due to their matching heights above road levels and by implication the scheme’s relationship to its surroundings. Generally, the houses present a two-storey elevation to the south including those facing Lingards Road and a three-storey elevation to the north which is also reduced to two storeys by way of including rooms in the roof storeys.”



Plot 23, Lingards Fold
Red line: Ground floor level – doorway leading into yet to be constructed garage
Yellow line: Apparent garage threshold level

This was the applicant’s justification for why dwellings of this scale would relate acceptably to Lingards Road and the surrounding houses. It relied upon:

- controlled ridge heights in relation to the respective road levels;
- a two-storey appearance towards Lingards Road; and

- the visual reduction of the northern three-storey elevation by placing the uppermost accommodation within the roof.

The confirmed increase in the level of Plot 23 undermines that justification. Raising the dwelling raises its principal floors, roof accommodation and ridge above the position assessed under the permission. Although the roof may retain the same shape, it is no longer viewed at the approved elevation and cannot be assumed to achieve the same visual reduction.

Built form belonging to the proposed lower-ground garden room is also visible beneath the raised patio from Lingards Road. Plot 23 therefore no longer presents solely as the two-storey southern elevation described in the Design and Access Statement. Its increased elevation has made both the roof accommodation above and the additional lower-ground construction below more perceptible.

The assessment cannot be confined to comparing the ridge with the road serving the new development. If both the dwelling and its adjoining road have been raised, their internal ridge-to-road relationship might remain similar while the entire composition sits higher relative to Lingards Road and the existing properties opposite. Both the approved absolute levels and the relationship with the established surroundings must be considered.

Expansion in width and mass

The increased height is compounded by the proposed double garage, which would widen the front elevation, enlarge the footprint and increase the overall mass of Plot 23.

It is not comparable with the integrated double garage at No.96, which is contained within the principal-built form and does not widen that dwelling. Nor is it comparable with the two single underbuild garages at No.94, which similarly do not extend the width of the house. Neither property faces the development in the same manner as Plot 23 faces the existing homes on Lingards Road.

At Plot 23, the double garage would project sideways from an already elevated and prominent dwelling. The Housebuilders Design Guide SPD requires garages to be carefully incorporated so that they do not dominate the dwelling frontage or streetscape. The relevant issue is therefore not merely whether two vehicles can be accommodated, but whether the garage's width, projection and relationship with the enlarged house produce an acceptable composition.

The widened glazing at the rear of the garage forms part of the same alteration. The proposal would increase the width and visual emphasis of this part of the building rather than provide a simple enlargement of the parking area.

The reduced gap to Plot 34

The approved plans provided a 10-metre separation between Plots 23 and 34. We know that this separation has been reduced, although Kirklees has yet to confirm its own findings.

The approved space performed an amenity and design function. It preserved openness between two substantial Britannia dwellings, moderated their combined mass and prevented the group from appearing cramped.

Its reduction becomes more significant because Plot 23 has simultaneously increased in height and width. A gap considered acceptable between buildings of the approved dimensions cannot automatically be regarded as adequate once one of those buildings has become materially larger.

Plot 23 also appears to have been displaced eastwards, towards Plot 34 and No.92 Lingards Road. The enlargement has therefore been accommodated partly at the expense of the approved space around the dwelling.

Plots 23, 34 and 35 were originally approved as versions of the same Britannia house type. The combination of greater height, increased width and reduced separation now makes Plot 23 an exceptional and more dominant building within that group, undermining the coherence of the original arrangement.

Expansion downwards and outwards

The revised Plot 23 site section submitted under application 2023/93464 records the approved levels as LF 198.50 and GF 201.20. It shows the dwelling within a coordinated arrangement of external ground profiles and retaining works, but it does not show an enclosed room beneath the raised patio. That area was represented as part of the external arrangement around the dwelling.

Application 2026/91657 introduces a lower-ground garden room beneath the patio, with prominent windows and a doorway. This is not merely an alteration to an approved internal room. It encloses and prominently glazes an area previously presented as external space.

Plot 23 has consequently expanded downwards and outwards as well as upwards and sideways. The proposed garden room increases the amount of accommodation, the visible built form and the number of perceptible levels facing Lingards Road.

Its description as a “garden room” does not lessen those effects. The assessment must consider the substantial enclosed area actually proposed, its domestic-scale glazing and access, and its relationship with the remainder of the dwelling.

That assessment must also consider the lowest area labelled “Store.” The garden room and Store should not be treated as unrelated alterations if, together with the principal accommodation above, they create built form across four physical levels.

The removal of permitted-development rights

The original permission removed permitted-development rights for extensions, roof alterations and outbuildings in the interests of visual and residential amenity. The committee minutes similarly record that permitted-development rights were to be removed for outbuildings and extensions across the development.

This demonstrates that the approved footprints, roof forms, spacing and relationships between buildings required continuing control. They were not treated as arrangements with unlimited capacity to absorb later enlargement.

Although application 2026/91657 requires determination on its own merits, the reason for removing those rights remains directly relevant. The same visual and residential amenity interests must be applied rigorously when considering the cumulative enlargement of Plot 23 during construction.

Cumulative assessment

Under section 70(2) of the Town and Country Planning Act 1990, the Council must have regard to the development plan and other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise.

That assessment must address Plot 23 as it would actually exist if application 2026/91657 were approved. It would be artificial to consider the increased height, reduced separation, widened footprint, double garage, enlarged glazing and additional lower-ground accommodation independently when their combined effect determines the building's actual scale, dominance and relationship with its surroundings.

The original amenity safeguards operated together:

- the approved levels-controlled height and dominance;
- the roof-storey treatment reduced the apparent scale of the uppermost accommodation;
- the southern elevation was intended to present generally as two storeys;
- the 10-metre gap preserved openness between Plots 23 and 34;
- the approved footprint and siting-controlled width and mass;
- the common Britannia design produced a coherent group of dwellings; and
- the removal of permitted-development rights protected those relationships from later enlargement.

Plot 23 has departed cumulatively from those controls. It is higher and wider, the approved separation from Plot 34 has been reduced, and it has shifted towards No.92. It also incorporates broader glazing and additional lower-ground accommodation and presents more perceptible built levels than the approved design justification anticipated.

The applicant should not be permitted to rely upon the design justification for the smaller, lower and more widely separated approved dwelling while seeking approval for a materially expanded building whose physical and visual relationships are fundamentally different.

Below is a summary table of the key points raised

Original control or justification	Amenity/design purpose	What has changed at Plot 23
10-metre separation between Plots 23 and 34	Prevented the two substantial Britannia dwellings appearing cramped and overbearing; preserved light, outlook and openness between them	The approved separation has been reduced
Approved building levels and ridge relationships	The Design and Access Statement justified three storeys because the new ridges would be approximately equal to—or lower than—the existing houses when measured above their respective road levels	Plot 23 has been confirmed higher than approved, undermining the factual height relationship used to justify it
Two-storey presentation towards Lingards Road	Reduced the apparent scale and dominance of the development when viewed from the south and from existing properties	The top of the garden-room doorway is visible beneath the raised patio, exposing built form belonging to an additional lower level
Northern three-storey elevation visually “reduced to two storeys” through rooms in the roof	Deliberately toned down the apparent height and mass of the rear elevation	Raising the entire dwelling makes the roof storey and ridge more prominent; the building is being enlarged rather than visually subordinated
Plots 23, 34 and 35 approved as the same Britannia design	Created a coherent group of comparably scaled dwellings rather than one exceptional or dominant building	Plot 23 has been widened, repositioned and individually enlarged, with a double garage, expanded accommodation and altered lower-ground construction
Approved footprint and siting	Maintained the intended spaces between buildings and controlled massing across the steep site	The constructed footprint appears to correspond with the larger grouped plan; Plot 23 has shifted eastwards and the approved open space towards Plot 34 has reduced
Three-storey development	The scheme was presented to and approved by committee as a development of two- and three-storey houses	Plot 23 now contains built form across four physical levels: the lowest “Store,” garden-room/terrace level, ground floor and upper accommodation

Restricted future enlargement	Permitted-development rights for extensions, roof alterations and outbuildings were removed expressly in the interests of visual and residential amenity	Plot 23 has nevertheless undergone substantial cumulative enlargement during construction and through successive applications
Controlled glazing and elevations	The approved elevations allowed the Council and public to assess appearance, privacy, overlooking and light	Plot 23 proposes prominent garden-room windows and wider glazing behind the garage
Comprehensive landscaping and boundary treatment	Intended to integrate the development into the hillside and protect visual and residential amenity	Altered levels, excavation, retaining structures and enlarged built form change the physical landscape to which that strategy was supposed to respond